



Atty. Docket No.: 3284/1220

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: Habener, et al.  
Serial No.: 09/731,255  
Filed: December 6, 2000  
Entitled: Method of Transplanting in a Mammal  
and Treating Diabetes Mellitus by  
Administering a Pseudo-Islet Like  
Aggregate Differentiated from a  
Nestin-Positive Pancreatic Stem Cell

Examiner: Bunner, B.E.

Group Art Unit: 1647

Conf. No.: 9070

**CERTIFICATE OF MAILING UNDER 37 C.F.R. § 1.8a**

I hereby certify that this correspondence (and any paper or fee referred to as being enclosed) is being deposited with the United States Post Office as First Class Mail on the date indicated below in an envelope addressed to Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Kathleen Williams

Name of Person Mailing Paper

Signature of Person Mailing Paper

Mail Stop AF  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**STATEMENT OF SUBSTANCE OF EXAMINER INTERVIEW**

Applicants have received the Interview Summary mailed June 28, 2004 in the above noted application. Applicants filed a reply to the last Office Action on March 16, 2004, prior to receiving the Interview Summary with the Notice of Allowance, and thus are now submitting the requisite Statement of Substance.

During the telephonic interview held February 12, 2004 with Examiner Bridget E. Bunner and Examiner Elizabeth Kemmerer, Applicants' representatives and the Examiners discussed the rejection of claims 25-35 and 67-79 under 35 U.S.C. § 112, first paragraph for alleged lack of enablement. In particular, Applicants' representatives and the Examiners discussed the undue experimentation and unpredictability associated with xenotransplantation of cells into humans. The Examiners suggested that Applicants' representatives submit either a manuscript/declaration from the inventor and/or a publication indicating successful transplantation of non-human cells into humans.

Applicants' representatives submitted pre-filing evidence indicating successful xenotransplantation into a human with Applicants' response to Final Office Action filed on March 16, 2004.

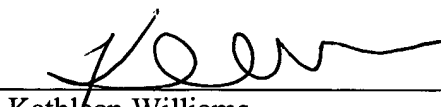
Serial No. 09/259,474  
September 29, 2003

Applicants submit that claims 25-35, 67-79 and 128-149 are allowed. Applicants also submit that the informal Examiner's Amendment presented at page 2 of the Notice of Allowability, wherein the Brief Description of Drawings has been amended to more accurately reflect the figures submitted on March 26, 2001, is acceptable to Applicants.

Respectfully submitted,

Date:

July 23, 2004



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**TRANSMITTAL LETTER**

Enclosed for filing the above-identified patent application, please find the following documents:

1. Statement Of Substance Of Examiner Interview;
2. Return Post Card.

The Commissioner for Patents is hereby authorized to charge all fees to Deposit Account No. 16-0085, Reference 3284/1220. A duplicate of this transmittal letter is enclosed for this purpose.

Respectfully submitted,

Date: July 23, 2004

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